

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1306 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
(No. 1 to 5 NO)

HEIRS OF RANGILDAS SOMABHAI PATEL

Versus

COMPETENT AUTHORITY & DEPUTY COLLECTOR

Appearance:

MR YN RAVANI for Petitioners

Mr. T.S.Sompura, Ld.Govt. Counsel for Respondents

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 27/02/97

ORAL JUDGEMENT

Upon hearing learned counsel Mr. Yogesh Ravani for the petitioners and learned Govt. Counsel Mr. Tushar Sompura appearing on behalf of the respondents, it appears that the present petition requires to be granted and the matter requires to be remanded to the Competent Authority for a fresh decision, according to law and on

merits.

The present petitioners happen to be the heirs & legal representatives of deceased Rangildas Somabhai Patel. The deceased was the holder of the land at village Tunki under the Surat district bearing Survey No. 38, admeasuring 10724 sq. meters and Survey No. 62 of village Singanpor under the same district, admeasuring 10117 sq. meters. The deceased has submitted the necessary form and the Competent Authority was pleased to pass the orders on May 04, 1985 declaring that an area of 19314 sq. meters of the land would be the excess vacant land. But before this order could be passed on May 04, 1985, the deceased Rangildas Patel had died on August 18, 1980. It is abundantly clear without any manner of doubt that, after the death of the deceased, the petitioners were never on the record and were not given any opportunity of being heard. The matter has travelled much beyond and now there is the notice dated May 16, 1996 issued by the Competent Authority, Surat under Section 10(5) of the ULC Act, 1976. It is at this stage that the petitioners challenge all the proceedings & orders, including the above said notice dated May 16, 1996.

The principal contention coming from learned counsel for the petitioners Mr. Yogesh Ravani is that, even when the first order declaring the land to be excess vacant land came to be passed by the Competent Authority under the orders dated May 04, 1985, the deceased Ragildas Patel was no more and that the present petitioners were not given any opportunity of being heard. Arguing in the same line, learned counsel Mr. Ravani urges that the said orders and all other orders and proceedings and the notice dated May 16, 1996 can be said to be nullity because they are against a dead person.

Ld. Govt. Counsel Mr. T.H. Sompura who appears on behalf of the respondents has no answer to these two contentions coming from learned counsel Mr. Ravani. It shall have to be accepted that everything has been done against the dead person, and that the petitioners never came to be given any opportunity of being heard. All the proceedings therefore right from the orders dated 4th May 1985 and the Notice dated May 16, 1996 require to be quashed and set aside. I order accordingly.

The matter shall stand retransmitted to the Competent Authority, who shall decide the same according

to law and on merits, after affording a reasonable opportunity of being heard to the petitioners.

Rule is made absolute accordingly to the above said extent, with no order as to cost. D.S. permitted.
